

AMENDED IN ASSEMBLY JUNE 18, 2012

AMENDED IN SENATE MAY 10, 2011

AMENDED IN SENATE APRIL 13, 2011

**SENATE BILL**

**No. 615**

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**Introduced by Senator Calderon**

February 18, 2011

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An act to amend ~~Section 1359 of, and to add Section 1361.5 to, the Health and Safety Code, and to amend Section 1631.5 of, and to add Section 1749.87 to, the Insurance Code, relating to health care coverage Sections 742.20 and 742.40 of the Insurance Code, relating to insurance.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 615, as amended, Calderon. ~~Health care service plans: accident and health agents: licensure. Multiple employer welfare arrangements: benefits.~~

*Existing law prohibits a self-funded or partially self-funded multiple employer welfare arrangement (MEWA) from providing any benefits for any resident of this state without obtaining a certificate of compliance from the Insurance Commissioner. Existing law imposes various eligibility requirements on a self-funded or partially self-funded MEWA in order to obtain a certificate of compliance, including, among other things, that it be a nonprofit corporation, that it be established and maintained by a specified association with at least 200 paid members, and that benefits be only offered to association members.*

*Under existing law, a self-funded or partially self-funded MEWA is limited to providing certain benefits that include, among other things, medical, dental, and surgical benefits. Under existing law, a MEWA is required to offer health care coverage benefits to any newly eligible*

*person and his or her dependents under terms and conditions no less favorable than those offered to the MEWA employers' existing employees and their dependents under specified circumstances.*

*This bill would, commencing January 1, 2014, prohibit a MEWA from offering, issuing, selling, or renewing health care coverage benefits unless the MEWA discloses whether the benefits constitute minimum essential coverage, as defined under existing federal law.*

~~Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. A willful violation of the act is a crime. The chief officer of the department is the Director of the Department of Managed Health Care. Existing law authorizes the director to require that solicitors and solicitor firms, and principal persons engaged in the supervision of solicitation for plans of solicitor firms, meet specified standards.~~

~~This bill would change the director's authority as described above to make it mandatory. On and after January 1, 2013, the bill would also require solicitors and solicitor firms, and principal persons engaged in the supervision of solicitation for health care service plan contracts, specialized health care service plan contracts, Medicare Advantage Plans under Medicare Part C, or Medicare supplement contracts, to complete solicitor training that includes, among other things, information relating to the act, the federal Patient Protection and Affordable Care Act, and the California Health Benefit Exchange. The bill would require the department to consult with the Insurance Commissioner with respect to developing the curriculum for the solicitor training.~~

~~Because a willful violation of the act constitutes a crime, the bill would impose a state-mandated local program.~~

~~Existing law requires accident and health agent licensees to be licensed by the Insurance Commissioner, subject to prelicensure standards and continuing education requirements developed by the curriculum board that consists of insurance industry representatives and consumer groups. Existing law authorizes the Insurance Commissioner to enforce those provisions.~~

~~This bill would require the curriculum board to make recommendations to the commissioner to, among other things, instruct accident and health licensees about the requirements of the federal Patient Protection and Affordable Care Act and to include instruction relating to the California Health Benefit Exchange. The bill would~~

~~require each course provider to submit its course content to the commissioner for approval.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.  
State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 742.20 of the Insurance Code is amended  
2     to read:

3     742.20. The Legislature finds and declares the following:

4     (a) An alternative to insurance programs, health care  
5     maintenance organizations, and panel provider organizations was  
6     established by Congress in 1974 through the Employee Retirement  
7     Income Security Act (ERISA). Among the various employee  
8     benefit programs established and governed by ERISA are multiple  
9     employer welfare arrangements (MEWA), which are subject as  
10    well to state regulatory and fiscal standards not inconsistent with  
11    ERISA. MEWAs permit employer members of trade associations  
12    to create trust funds for the purpose of offering and providing  
13    health care benefits to their employees. MEWAs can be created  
14    as fully insured or self-funded or partially self-funded benefit  
15    programs.

16   (b) The Legislature recognizes that some MEWAs provide an  
17   alternative mechanism to traditional health insurance for small  
18   employers. It is the intent of the Legislature to ensure the financial  
19   integrity of those MEWA programs that are already in existence  
20   by requiring self-funded or partially self-funded MEWAs to obtain  
21   a certificate of compliance from the Department of Insurance. In  
22   order for the Department of Insurance to grant a certificate of  
23   compliance, the MEWA must adhere to standards set forth in this  
24   act which are not inconsistent with the provisions of ERISA.  
25   Further, it is the intent of the Legislature to provide the Department  
26   of Insurance with the authority to levy monetary penalties and to  
27   revoke certificates of compliance from MEWAs that violate the  
28   provisions of this act.

1 (c) *The federal Patient Protection and Affordable Care Act*  
2 *enacted various health care coverage market reforms that become*  
3 *operative on January 1, 2014. It is the intent of the Legislature to*  
4 *encourage MEWAs regulated by this article to provide certain*  
5 *essential health benefits to the extent not inconsistent with ERISA.*

6 (e)

7 (d) The Legislature has passed significant reforms in the area  
8 of small group health insurance. This article, in no manner,  
9 circumvents these reforms nor is it intended to be a precedent to  
10 do so. Therefore, the small group reform legislation applies to  
11 MEWAs to the extent it is not inconsistent with ERISA.

12 (d)

13 (e) The provisions of this article are consistent with and  
14 authorized by ERISA, which confers upon the states limited  
15 authority to regulate MEWAs.

16 SEC. 2. *Section 742.40 of the Insurance Code is amended to*  
17 *read:*

18 742.40. (a) A multiple employer welfare arrangement shall  
19 offer health care coverage benefits to any new eligible person and  
20 his or her dependents under terms and conditions no less favorable  
21 to those offered to their employers' existing employees and their  
22 dependents, if the newly eligible person had health care benefit  
23 coverage with either the same or a different multiple employer  
24 welfare arrangement within 31 days. The new coverage shall  
25 comply with existing eligibility rules of the multiple employer  
26 welfare arrangement.

27 (b) A multiple employer welfare arrangement shall comply with  
28 the requirements set forth in Sections 10198.7 and 10198.9.

29 (c) *Notwithstanding any other provision of law, commencing*  
30 *January 1, 2014, a multiple employer welfare arrangement shall*  
31 *not offer, issue, sell, or renew health care coverage benefits unless*  
32 *the multiple employer welfare arrangement discloses in all*  
33 *marketing material and solicitations whether the benefits constitute*  
34 *minimum essential coverage as defined in Section 5000A(f) of Title*  
35 *26 of the Internal Revenue Code and any rules or regulations*  
36 *adopted thereunder.*

37 ~~SECTION 1. Section 1359 of the Health and Safety Code is~~  
38 ~~amended to read:~~

39 ~~1359. (a) The director shall require that solicitors and solicitor~~  
40 ~~firms, and principal persons engaged in the supervision of~~

~~solicitation for plans of solicitor firms, meet reasonable and appropriate standards with respect to training, experience, and other qualifications consistent with Section 1361.5 and any additional standards as the director finds necessary and appropriate in the public interest or for the protection of subscribers, enrollees, and plans. For such purposes, the director may do the following:~~

~~(1) Appropriately classify such persons and individuals.~~

~~(2) Specify that all or any portion of such standards shall be applicable to any such class.~~

~~(3) Require individuals in any such class to pass examinations prescribed in accordance with such rules.~~

~~(b) The director may prescribe by rule reasonable fees and charges to defray the costs of carrying out this section, including, but not limited to, fees for any examination administered by the director or under his or her direction.~~

~~SEC. 2. Section 1361.5 is added to the Health and Safety Code, to read:~~

~~1361.5. (a) On and after January 1, 2013, solicitors and solicitor firms, and principal persons engaged in the supervision of solicitation for health care service plan contracts, specialized health care service plan contracts, Medicare Advantage Plans under Medicare Part C, or Medicare supplement contracts, shall complete training as a solicitor consistent with this section.~~

~~(b) The training for a solicitor shall include the following:~~

~~(1) Knowledge of the Knox-Keene Health Care Service Plan Act of 1975 (commencing with Section 1340) and regulations implemented under that act.~~

~~(2) Knowledge of the federal Patient Protection and Affordable Care Act (Public Law 111-148) and other relevant federal laws, federal regulations, and guidance implemented under those laws.~~

~~(3) Knowledge of all public coverage programs and the California Health Benefit Exchange.~~

~~(4) Ethics training.~~

~~(c) In developing the curriculum for solicitor training, the department shall consult with the Insurance Commissioner. The training developed by the department shall be at least as extensive as the training for an accident and health agent, as required by the Insurance Commissioner.~~

~~(d) The department shall determine whether the ethics training provided to those licensed as an accident and health agent by the~~

1 Insurance Commissioner is sufficient and appropriate for a  
2 solicitor. If the department so determines, then an individual  
3 licensed and in good standing as an accident and health agent shall  
4 not be required to complete the ethics training described in this  
5 section; however, all other requirements pursuant to this section  
6 shall apply.

7 (e) Nothing in this section shall be deemed to affect the current  
8 operations of the Healthy Families Program (Part 6.2 (commencing  
9 with Section 12693) of Division 2 of the Insurance Code), the  
10 Access for Infants and Mothers Program (Part 6.3 (commencing  
11 with Section 12695) of Division 2 of the Insurance Code), or the  
12 Medi-Cal program (Chapter 7 (commencing with Section 14000)  
13 of Part 3 of Division 9 of the Welfare and Institutions Code).  
14 Nothing in this section shall be deemed to affect the operations of  
15 the California Health Benefit Exchange established in Title 22  
16 (commencing with Section 100500) of the Government Code.

17 (f) Nothing in this section shall apply to the requirements or  
18 qualifications for navigators pursuant to subdivision (l) of Section  
19 100502 of the Government Code.

20 SEC. 3. Section 1631.5 of the Insurance Code is amended to  
21 read:

22 1631.5. (a) Nothing in this article shall be deemed to affect  
23 the current operations of the Healthy Families Program (Part 6.2  
24 (commencing with Section 12693) of Division 2) or the Access  
25 for Infants and Mothers Program (Part 6.3 (commencing with  
26 Section 12695) of Division 2), or the Medi-Cal program (Chapter  
27 7 (commencing with Section 14000) of Part 3 of Division 9 of the  
28 Welfare and Institutions Code). Nothing in this article shall be  
29 deemed to affect the operations of the California Health Benefit  
30 Exchange established in Title 22 (commencing with Section  
31 100500) of the Government Code.

32 (b) Nothing in this article shall apply to the requirements or  
33 qualifications for navigators pursuant to subdivision (l) of Section  
34 100502 of the Government Code.

35 SEC. 4. Section 1749.87 is added to the Insurance Code, to  
36 read:

37 1749.87. (a) The curriculum board shall, in 2012, make  
38 recommendations to the commissioner to instruct accident and  
39 health agents about the requirements imposed by the federal Patient  
40 Protection and Affordable Care Act (Public Law 111-148). This

1 instruction shall include instruction on all public coverage programs  
2 and the California Health Benefit Exchange established in Title  
3 22 (commencing with Section 100500) of the Government Code.

4 (b) The curriculum board shall make recommendations to revise  
5 both prelicensing education and continuing education.

6 (c) Each provider of courses based upon this curriculum shall  
7 submit its course content to the commissioner for approval.

8 SEC. 5. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 the only costs that may be incurred by a local agency or school  
11 district will be incurred because this act creates a new crime or  
12 infraction, eliminates a crime or infraction, or changes the penalty  
13 for a crime or infraction, within the meaning of Section 17556 of  
14 the Government Code, or changes the definition of a crime within  
15 the meaning of Section 6 of Article XIII B of the California  
16 Constitution.